

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

SHERI SAWYER MADISON,	:	
	:	
Plaintiff,	:	NO. 4-96-CV-20712
	:	
vs.	:	
	:	
IBP, INC.,	:	FINAL JURY INSTRUCTIONS
	:	
Defendants.	:	

TABLE OF CONTENTS

1. Use of Instructions
2. Jurors' Duties
3. Corporation's Actions, Admissions
4. Statistical Evidence
5. Undisclosed Evidence
6. Plaintiff's Claims
7. Employment Decision
8. Interracial Association
9. Failure to Promote
10. Same Decision
11. Harassment
12. Harassing Conduct
13. Reasonable-Person Standard
14. Hostile Work Environment
15. Employer's Duty, Prompt Remedial Action
16. Evidence of Discrimination
17. Retaliation
18. Legitimate, Nondiscriminatory Reason; Pretext
19. Constructive Demotion
20. No Quotient Verdict or Duplicate Damages
21. Actual Damages
22. Nominal Damages
23. Punitive Damages

Pl.

INSTRUCTION NO. _____
USE OF INSTRUCTIONS

Members of the jury, the instructions I gave you at the beginning of the trial and during the trial remain in effect. I now give you some additional instructions.

You must, of course, continue to follow the instructions I gave you earlier, as well as those I give you now. You must not single out some instructions and ignore others, because all the instructions are important. This is true even though some of those I gave you at the beginning of the trial are not repeated here.

In considering these instructions, you will attach no importance or significance whatsoever to the order in which they are given . Furthermore, neither in these instructions nor in any ruling, action, or remark that I have made during the course of this trial have I intended to give any opinion or suggestion as to what your verdict should be.

INSTRUCTION NO. _____
JURORS' DUTIES

Your first duty upon retiring to the jury room for your deliberations is to elect one of your members to act as presiding juror. The person so elected is responsible for the orderly, proper, and free discussion of the issues by any juror who wishes to express his or her views. He or she will supervise the balloting and sign the form or forms of verdict that are in accord with your decision and will also sign any written inquiries addressed to the Court. Requests regarding instructions are not encouraged. Experience teaches that questions regarding the law are normally fully covered in the instructions, and the jury is encouraged to examine them very carefully before making any further requests of the Court.

The attitude of jurors at the outset of their deliberations is important. It is seldom helpful for a juror, upon entering a jury room, to announce an emphatic opinion in a case, or a determination to stand for a certain verdict. When a juror does that at the outset, individual pride may become involved, and the juror may later hesitate to recede from an announced position even when it is incorrect. You are not partisans. You are judges -- judges of the facts. Your sole interest is to ascertain the truth.

Def.

INSTRUCTION NO. _____
CORPORATION'S ACTIONS, ADMISSIONS

A corporation acts only through its management level employees, and any management level employee of a corporation may bind the corporation by acts and statements made while acting within the scope of his or her duties as an employee of the corporation.

To determine what IBP knew or should have known, you shall consider something known by a management level employee to be known by the corporation. Likewise, you shall consider actions, statements, and decisions by IBP's management level employees to be IBP's actions, statements, and decisions.

You have heard evidence claiming management level employees of IBP made statements before this trial while under oath. These statements are called admissions.

If you find an admission was made, you may consider it as if made during this trial. Decide whether to consider the admission for any purpose and what weight to give it.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
STATISTICAL EVIDENCE

Statistical information concerning firing, hiring, job assignments, and promotional history of employees is evidence of a defendant employer's motive. Statistical evidence may create an inference of discriminatory intent with respect to the individual employment decision at issue in a particular case. Statistical evidence may also be used to prove that the defendant's stated reason for not promoting Sheri Madison is not the true reason for their decision.

Pl.'s Proposed Final Instruction No. 8, modified.
Fed. R. Civ. P. 37(c)(1), comment, modified

INSTRUCTION NO. _____

IBP failed to disclose to Sheri Madison certain employment records, specifically applicant flow logs, that IBP had an obligation to disclose to her in this case. You may infer that the undisclosed applicant flow logs were unfavorable to IBP.

Def.

INSTRUCTION NO. _____
PLAINTIFF'S CLAIMS

It is unlawful for an employer intentionally to refuse to promote any person or otherwise discriminate against any person with respect to compensation, tenure, conditions, or privileges of employment, or to retaliate against an employee for engaging in certain protected activity, because of that person's race or sex.

Plaintiff asserts six separate theories of recovery against Defendant IBP for her claims of discrimination:

1. Sex discrimination - failure to promote
2. Sex harassment - hostile work environment
3. Race discrimination - failure to promote
4. Race harassment - hostile work environment
5. Retaliation
6. Constructive Demotion

Sheri Madison in this case claims that IBP intentionally discriminated against her on the basis of sex and race for failure to promote, discriminated against her in the terms and conditions of her employment by failing to take remedial action to correct a hostile working environment in which she claims she was sexually and racially harassed, and retaliated against her because she filed a civil rights complaint. The defendant denies this charge. It is your responsibility to decide whether the plaintiff has proven any one of her claims against the defendant by a preponderance of the evidence, in accordance with these instructions.

Def.

INSTRUCTION NO. _____
EMPLOYMENT DECISION

You may not return a verdict for plaintiff just because you might disagree with defendant's promotion decisions or believe them to be harsh or unreasonable.

The law entitles IBP to treat the plaintiff in what you may believe is an unfair or inconsistent manner, as long as her treatment was not based on gender or race discrimination. That is, it does not matter whether you agree with IBP's reason for what it did, or whether you consider that reason to be fair. IBP had the right to be subjective in its treatment of the plaintiff, even if that treatment seems shortsighted or narrow-minded to you, as long as that treatment was not based on gender or race discrimination.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
DISCRIMINATION & HARASSMENT BASED ON AN
INTERRACIAL RELATIONSHIP OR ASSOCIATION

Although Sheri Madison is white, she brings a race discrimination and harassment claim because she alleges she was discriminated against and harassed based on her interracial marriage. Discrimination and harassment based on an interracial relationship or association with members of another race is prohibited by law and recognized as discrimination based on race.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
FAILURE TO PROMOTE ON THE BASIS OF GENDER OR RACE --
ESSENTIAL ELEMENTS

Your verdict must be for Plaintiff Sheri Madison and against Defendant IBP in Plaintiff's gender and/or race discrimination claim for failure to promote her if each of the following elements have been proved by the greater weight of the evidence:

1. IBP failed to promote Sheri Madison.
 2. Sheri Madison's gender, or the race of her family members, was a motivating factor in IBP's decision.
- ? There may be more than one reason for IBP's decision not to promote Sheri Madison. Sheri Madison may be entitled to recover if one of the reasons for her not getting a promotion was her gender or the race of her family members, and this reason was a determining factor in the decision not to promote her -- stated another way, that the fact she was female or that her husband and children are black made a difference in that decision.
- ? You may, but are not required to, find that the gender of Sheri Madison or the race of her family members was a determining factor if you find that IBP's stated reason for its decision not to promote her is not the true reason for its decision, but rather, is a "pretext" to hide its discriminatory motivation.

If either element No. 1 or 2 above has not been proved by the greater weight of the evidence, your verdict must be for Defendant and you need not proceed further in considering this claim.

Def.

INSTRUCTION NO. ____
SAME DECISION

If you find in favor of Plaintiff under Instruction ____, then you must answer the following question: Has it been proved by the greater weight/preponderance of the evidence that Defendant would have failed to promote plaintiff regardless of her sex or the race of her family members?

PLAINTIFF'S PROPOSED FINAL JURY INSTRUCTION NO. _____
HOSTILE WORK ENVIRONMENT -
SEXUAL OR RACIAL HARASSMENT ESSENTIAL ELEMENTS

Your verdict must be for Plaintiff on her claim of racial or sexual harassment if all of the following propositions have been proved by the greater weight of the evidence:

First, that Sheri Madison was subjected to harassment in her work environment;

Second, the conduct was based on her gender or the race of her family;

Third, the conduct was unwelcome;

Fourth, the conduct was sufficiently severe or pervasive that a reasonable person in Plaintiff's position would find her work environment to be hostile;

Fifth, at the time the conduct occurred and as a result of the conduct, Plaintiff believed her work environment to be hostile or abusive;

Sixth, IBP knew, or should have known, of the harassment in Plaintiff's work environment;

Seventh, IBP failed to take prompt and appropriate corrective action to end the harassment.

If the Plaintiff has proved all of these propositions, she is entitled to recover damages on her claim of sexual harassment in some amount. If the Plaintiff has failed to prove any of these propositions, she is not entitled to recover on her claims of sexual or racial harassment.

PLAINTIFF'S PROPOSED FINAL JURY INSTRUCTION NO. _____
HOSTILE WORK ENVIRONMENT - HARASSING CONDUCT

Conduct that can create a hostile work environment need not be explicitly sexual or racial in nature. Abusive conduct that is not sexual or racial in nature but is based on gender or race can result in a hostile work environment. The key issue is whether members of one gender or race are exposed to disadvantageous terms, conditions or privileges of employment to which members of the other gender or race are not exposed.

In determining whether discriminatory or harassing conduct was sufficiently severe or pervasive enough to create a hostile work environment, you may consider conduct towards co-workers of the plaintiff, so long as the plaintiff was aware of that conduct and her own well-being was affected by that conduct. You may consider harassment that Sheri Madison was unaware of in determining intent and whether the harassment was a part of a pattern and practice.

PLAINTIFF'S PROPOSED FINAL JURY INSTRUCTION NO. _____
REASONABLE-PERSON STANDARD

In determining whether a hostile work environment existed, you must consider the evidence from the perspective of a reasonable person in the position of the plaintiff. This is an objective standard, and you must look at the evidence from the perspective of a reasonable person's reaction to a similar environment under similar circumstances.

You cannot view the evidence solely from the plaintiff's perspective or from the perspective of an overly sensitive person. Rather, you must evaluate the total circumstances and determine whether the alleged harassing behavior could be objectively classified as the kind of behavior that would alter the conditions of employment and create a hostile or offensive working environment or unreasonably interfere with a reasonable person's performance of job duties.

Conduct that some men consider appropriate may offend a reasonable woman. Conduct that creates a hostile work environment includes such conduct that can detract from employees' job performances, or that discourages employees from remaining on the job. In a claim for harassment, the conduct must be such that a reasonable person in the same circumstances as the plaintiff would find it hostile or abusive.

PLAINTIFF'S PROPOSED FINAL JURY INSTRUCTION NO. _____
HOSTILE WORK ENVIRONMENT -
TOTALITY OF THE CIRCUMSTANCES

When determining whether discrimination or harassment is severe or pervasive enough to create a work hostile environment, you must consider the totality of the circumstances. You must consider the frequency of the harassing conduct, its severity, whether it is physically threatening or humiliating, or a mere offensive utterance, and whether it unreasonably interferes with an employee's work performance. The more severe the individual incidents of harassment, the fewer incidents are needed to prove that the conduct is sufficiently severe or pervasive enough to make out a claim.

Conduct is unwelcome when the plaintiff did not solicit or incite it, and the plaintiff regarded the conduct as undesirable or offensive. The plaintiff's own conduct is relevant to your determination of whether the conduct was unwelcome, but must be considered along with all the circumstances and evidence produced at trial. The mere fact that Plaintiff's own conduct or language could be considered profane does not automatically make the conduct at issue in this case, as it occurred in the plaintiff's work environment, welcome. Defendant's conduct was unwelcome if you find that the plaintiff, by her own conduct, indicated that the conduct occurring in her work environment was offensive and unwanted.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
EMPLOYER'S DUTY, PROMPT REMEDIAL ACTION

An employer is liable for sexual and racial harassment by its supervisors. An employer is also liable for sexual and racial harassment by its non-supervisory employees (Sheri Madison's co-workers), if the employer knew, or should have known, of the harassment and did not take prompt, remedial action reasonably calculated to end the harassment. An employer knew of the hostile work environment when management level employees knew, or in the exercise of reasonable care should have known, of the hostile work environment.

When an employer knows of sexual or racial harassment, it has a duty to promptly take all necessary reasonable steps to investigate and correct the harassment, including warnings and appropriate discipline, and development of other means to prevent future harassment.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
EVIDENCE OF DISCRIMINATION

The use of stereotypical language relating to race and gender, or sexual and racial slurs can be considered as evidence of a defendant's intent to discriminate on the basis of gender or race. Use of this type of language creates an inference of discriminatory intent on the part of the individual using the language and with respect to any employment decisions in which the individual had a role.

Def.

**INSTRUCTION NO. _____
RETALIATION**

In considering the retaliation claim against the defendant, IBP you are instructed that the law prohibits retaliation by an employer against an employee who has made a complaint about sex or race discrimination or harassment. Your verdict must be for the plaintiff and against the defendant on the plaintiff's claim of retaliation if the following elements have been proved by the greater weight or preponderance of the evidence:

First, the plaintiff made a complaint about discrimination or harassment;

Second, the plaintiff's complaint of discrimination or harassment was a motivating factor in the defendant's promotion and/or discipline decision at issue in this case;

Third, the plaintiff was damaged as a result.

Your verdict must be for the defendant if any of the above elements have not been proved by the greater weight or preponderance of the evidence, or if it has been proved by the greater weight or preponderance of the evidence that defendant would have made this promotion and/or discipline decision action regardless of plaintiff's filing of a civil rights complaint and lawsuit against the defendant, or otherwise making a complaint of sex or race discrimination or harassment.

Def.

INSTRUCTION NO. ____
LEGITIMATE NONDISCRIMINATORY REASON; PRETEXT

Regarding Plaintiff's retaliation claim, Defendant contends its promotion and/or discipline decision concerning the plaintiff was undertaken for legitimate, nondiscriminatory reasons and had nothing to do with the plaintiff's complaining to the employer, or filing of a complaint with state and federal authorities. In considering the plaintiff's retaliation claim, you must consider the reasons given by the defendant for its actions and determine whether the plaintiff has proved that the reasons given were a pretext or cover-up for unlawful retaliatory conduct.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
CONSTRUCTIVE DEMOTION

Plaintiff Sheri Madison alleges that she had to accept a demotion at IBP because of racial or sexual harassment and discrimination. In order to make out a claim of "constructive demotion" Sheri Madison must show that IBP or its managerial employees deliberately made her working conditions so intolerable it was reasonably foreseeable that a reasonable person in the same position as the plaintiff would have taken a demotion in an attempt to separate herself from the harassment and discrimination.

If you find that Sheri Madison was "constructively demoted," you may award her damages that she claims arose as a result of her having to take the demotion.

Def.

INSTRUCTION NO. ____
NO QUOTIENT VERDICT OR DUPLICATE DAMAGES

In arriving at an item of damage, you cannot arrive at a figure by taking down the estimate of each juror as to an item of damage and agreeing in advance that the average of those estimates should be your item of damage.

You should not interpret the fact that I have given instructions about any party's damages as an indication in any way that I believe that any party should, or should not, win this case.

PLAINTIFF'S PROPOSED FINAL INSTRUCTION NO. _____
ACTUAL DAMAGES

If you find that Defendant IBP, based on Sheri Madison's gender or the race of her family members, discriminated against or harassed Sheri Madison, or caused her demotion, or if you find that IBP failed to promote or retaliated against the Plaintiff, and that the legitimate reason IBP gave for its decision was a pretext for the unlawful action, then you must determine an amount that is fair compensation for plaintiff's damages. You may award compensatory damages only for injuries that Sheri Madison proved were caused by IBP's, wrongful conduct. The damages you award must be fair compensation - no more, no less.

Back pay: If you find that Sheri Madison is entitled to damages, because IBP, discriminated against her by failing to promote her and/or causing her demotion because of her gender or the race of her family members, then in determining those damages you must award "back pay." Back pay is the amount of wages and fringe benefits Sheri Madison would have earned in her employment with IBP, if she had been promoted and/or not demoted. If you find she was discriminated against by IBP's failure to promote her and/or her demotion, she is entitled to back pay in an amount sufficient to bring her wages and fringe benefits up to those that would have been earned by an employee in the position from which she was demoted or to which she should have been promoted, minus the amount of earnings and benefits that Plaintiff received from other employment during that time.

Fringe benefits include, but are not limited to, the following items: any pension contributions and insurance payments made by the employer; and any vacation pay, sick pay, bonuses, stock options, or other things besides wages that an employer provides to an employee as part of the compensation.

Back pay liability does not accrue from a date more than two years before a plaintiff files a charge with the Equal Employment Opportunity Commission. Since Sheri Madison filed her charge with the Commission on January 18, 1995, if you find she is entitled to damages, then she can recover back pay from January 18, 1993, to the date of judgment in this case.

If you find that the plaintiff voluntarily quit her trainer position, you should consider, when making your damages calculations, the plaintiff's present wages to be that of a trainer position, since that is the position she was promoted to but quit.

Emotional Distress: In addition to back pay, you must determine the amount of damages, if any, for emotional distress sustained by Sheri Madison. Award her the amount that will fairly and justly compensate her for emotional distress damages you find she sustained as a direct result of IBP's discriminatory or harassing conduct. Damages for emotional distress include damages for emotional pain, suffering, mental anguish, inconvenience, humiliation, anxiety, and loss of enjoyment of life. A plaintiff does not need to introduce evidence of the monetary value of such elements of damages. The amount you assess for these elements of damages cannot be measured by any exact or mathematical standards. You must use your sound judgment based upon an impartial consideration of the evidence. When considering the amount of monetary damages to which a plaintiff may be entitled for emotional distress, you should consider the nature, character, and seriousness of the emotional pain, suffering, inconvenience, mental anguish and loss of enjoyment of life she felt. You must also consider the extent or duration, as any award you make must cover the damages endured by the plaintiff since the wrong-doing to the present time.

You may also award damages for future emotional distress to a plaintiff who has proved discrimination, if her emotional distress and its consequences can reasonably be expected to continue in the future.

You are also instructed that plaintiff has a duty under the law to "mitigate" her damages -- that is, to exercise reasonable diligence under the circumstances to minimize her damages. Therefore, if you find by the greater weight/preponderance of the evidence that plaintiff failed to seek out or take advantage of an opportunity that was reasonably available to her, you must reduce her damages by the amount she reasonably could have avoided if she had sought out or taken advantage of such an opportunity.

The amounts, if any, you find for each of the above items of damages will be used to answer the special verdicts. You must enter separate amounts for each type of damages in the verdict form and must not include the same items in more than one category.

Def.

INSTRUCTION NO. ____
NOMINAL DAMAGES

If you find in favor of plaintiff under (1) Instruction ____ (hostile work environment), or (2) Instruction ____ (constructive demotion); or (3) Instruction ____ (failure to promote), and if you find that the legitimate, nondiscriminatory reason Defendant gave for its decision was a pretext for unlawful, discriminatory failure to promote; or (4) Instruction ____ (retaliation), and if you find that the legitimate, nondiscriminatory reason Defendant gave for its decision was a pretext for unlawful, discriminatory retaliation, but you find that plaintiff's damages have no monetary value, then you must return a verdict for plaintiff in the nominal amount of One Dollar (\$1.00).

INSTRUCTION NO. _____
PUNITIVE DAMAGES

The law allows, but does not require, you to award punitive damages in addition to actual damages to Sheri Madison. For each claim you find that Sheri Madison has proved, if any, you must consider what, if any, punitive damages you should award for that claim.

Punitive damages are awarded in the jury's discretion to punish a defendant for acting with malice or with reckless indifference to a plaintiff's rights in order to deter the defendant and others like it from the same or similar conduct in the future. Therefore, in order to award Sheri Madison punitive damages for a certain claim, you must find, by the greater weight of the evidence, that the acts or omissions of IBP were done with malice or reckless indifference to Sheri Madison's rights.

In deciding on the amount of punitive damages, if any, you should consider how offensive the conduct of IBP was; what amount is needed, considering the defendant's financial condition, to punish IBP for its wrongful conduct toward plaintiff in this lawsuit and to prevent a future repetition of IBP's wrongful conduct [the conduct of IBP, in connection with the lawsuit]; whether the amount of punitive damages bears a reasonable relationship to the actual damages you have awarded; and what sum is sufficient to deter other similar employers from wrongful conduct in the future.

You should fix the amount of any punitive damages award using calm discretion and sound reasoning. You must not be influenced by sympathy or dislike for any party.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

SHERI SAWYER MADISON,

Plaintiff,

vs.

IBP, INC.,

:
:
:
:
:
:
:
:
:
:

NO. 4-96-CV-20712

SPECIAL INTERROGATORIES

The jury makes the following findings on the parties' claims:

INTERROGATORY NO. 1:

1. Has Madison established her claim for sexual discrimination by disparate treatment, as outlined in Instruction No. ____?

ANSWER: _____ Yes _____ No

If you answered YES above, answer Question 1A. If you answered NO above, go to Interrogatory No. 2.

1A. Has IBP, proved by the preponderance of the evidence that IBP, would not have promoted Madison regardless of her sex?

ANSWER: _____ Yes _____ No

If your answer to Interrogatory No. 1 is YES, and to Interrogatory No. 1A is NO, go to Interrogatories No. 2, 3, 4, 5, and 6.

If you answered NO to Interrogatory No. 1, or YES to Interrogatory No. 1A, go to Interrogatories No. 2, 3, 4, and 5. You will not answer Interrogatory No. 6 on this claim.

INTERROGATORY NO. 2:

2. Has Madison established her claim for racial discrimination by disparate treatment, as outlined in Instruction No. ____?

ANSWER: _____ Yes _____ No

If you answered YES above, answer Question 2A. If you answered NO above, go to

Interrogatory No. 3.

2A. Has IBP proved by the preponderance of the evidence that IBP would not have promoted Madison regardless of her and her family member's races?

ANSWER: _____ Yes _____ No

If your answer to Interrogatory No. 2 is YES, and to Interrogatory No. 2A is NO, go to Interrogatories No. 3, 4, 5, and 6.

If you answered NO to Interrogatory No. 2, or YES to Interrogatory No. 2A, go to Interrogatories No. 3, 4, and 5. You will not answer Interrogatory No. 6 on this claim.

INTERROGATORY NO. 3:

3. Has Madison established her claim for sexual harassment as the result of a hostile work environment, as outlined in Instruction No. ___?

ANSWER _____ Yes _____ No

If you answered YES above, answer Question 3A. If you answered NO above, go to Interrogatory No. 4.

3A. Has Madison established that IBP failed to take prompt remedial action reasonably calculated to end the sexual harassment by Madison's co-workers?

ANSWER: _____ Yes _____ No

If your answer to Interrogatory No. 3 and to Interrogatory No. 3A is YES, go to Interrogatories No. 4, 5, and 6.

If you answered NO to Interrogatory No. 3, or NO to Interrogatory No. 3A, go to Interrogatories No. 4 and 5. You will not answer Interrogatory No. 6 on this claim.

INTERROGATORY NO. 4:

4. Has Madison established her claim for racial harassment as the result of a hostile work environment, as outlined in Instruction No. ___?

ANSWER _____ Yes _____ No

If you answered YES above, answer Question 4A. If you answered NO above, go to

Interrogatory No. 5.

4A. Has Madison established that IBP failed to take prompt remedial action reasonably calculated to end the racial harassment by Madison's co-workers?

ANSWER: _____ Yes _____ No

If your answer to Interrogatory No. 4 and to Interrogatory No. 4A is YES, go to Interrogatories No. 5 and 6.

If you answered NO to Interrogatory No. 4, or NO to Interrogatory No. 4A, you will not answer Interrogatory No. 6 on this claim.

INTERROGATORY NO. 5:

5. Has Madison established her claim of retaliation, as set out in Instruction No. ____ ?

ANSWER _____ Yes _____ No

If you answered YES above, answer Question 5A. If you answered NO above, go to Interrogatory No. 6.

5A. Has IBP, Inc., proved by the preponderance of the evidence that IBP would not have failed to promote Madison or made the same disciplinary decision concerning her regardless of her filing of a civil rights complaint or complaining to her employer about sex or race discrimination or harassment?

ANSWER: _____ Yes _____ No

If your answer to Interrogatory No. 5 is YES, and to Interrogatory No. 5A is NO, go to Interrogatory No. 6.

If you answered NO to Interrogatory No. 5, or YES to Interrogatory No. 5A, you will not answer Interrogatory No. 6 on this claim.

INTERROGATORY NO. 6:

Answer Interrogatory No. 6 if, and only if, you answered YES to Interrogatory No. 1 and NO to Interrogatory No. 1A; if you answered YES to Interrogatory No. 2 and NO to Interrogatory No. 2A; if you answered YES to Interrogatory No. 3 and YES to Interrogatory No. 3A; if you answered YES to Interrogatory No. 4 and YES to Interrogatory No. 4A; OR if you answered YES to Interrogatory No. 5 and NO to Interrogatory No. 5A.

6. State the amount of damages sustained by Madison, if any, If Madison has failed to prove any item of damage, enter "0" for that item.

6A. Compensatory damages.

1. Past lost wages and benefits	\$ _____
2. Past Emotional Distress	\$ _____
3. Future Emotional Distress	\$ _____
TOTAL COMPENSATORY DAMAGES	\$ _____

6B. Nominal damages.

Answer Question 6B if, and only if, you awarded no amount of damages in Question 6A.

1. Nominal damages (\$1.00)	\$ _____
-----------------------------	----------

6C. Punitive damages.

Answer Question 1 below if, and only if, you answered YES to Interrogatory No. 1 and NO to No. 1A, and you awarded some amount of damages in Questions 6A or 6B.

1. Has Madison established that IBP, Inc., acted with malice or reckless indifference to her right not to be subjected to sexual discrimination through disparate treatment?

ANSWER: _____ Yes _____ No

If you answered YES to Question 1, please state the amount of punitive damages, if any, that you believe is appropriate for this claim.

\$ _____

Answer Question 2 below if, and only if, you answered YES to Interrogatory No. 2 and NO to No. 1A, and you awarded some amount of damages in Questions 6A or 6B.

2. Has Madison established that IBP, Inc., acted with malice or reckless indifference to her right not to be subjected to racial discrimination through

disparate treatment?

ANSWER: _____ Yes _____ No

If you answered YES to Question 2, please state the amount of punitive damages, if any, that you believe is appropriate for this claim.

\$ _____

Answer Question 3 below if, and only if, you answered YES to Interrogatory No. 3, and YES to No. 3A, and awarded some amount of damages in Questions 6A or B.

3. Has Madison established that IBP, Inc., acted with malice or reckless indifference to her right to have prompt remedial action taken in response to sexual harassment in the work environment?

ANSWER: _____ Yes _____ No

If you answered YES to Question 3, please state the amount of punitive damages, if any, that you believe is appropriate for this claim.

\$ _____

Answer Question 4 below if, and only if, you answered YES to Interrogatory No. 4, and YES to No. 4A, and awarded some amount of damages in Questions 6A or B.

4. Has Madison established that IBP, Inc., acted with malice or reckless indifference to her right to have prompt remedial action taken in response to racial harassment in the work environment?

ANSWER: _____ Yes _____ No

If you answered YES to Question 4, please state the amount of punitive damages, if any, that you believe is appropriate for this claim.

\$ _____

Answer Question 5 below if, and only if, you answered YES to Interrogatory No. 5, and NO to No. 5A, and awarded some amount of damages in Questions 6A or B.

5. Has Madison established that IBP, Inc., acted with malice or reckless

indifference to her right to not be retaliated against?

ANSWER: _____ Yes _____ No

If you answered YES to Question 5, please state the amount of punitive damages, if any, that you believe is appropriate for this claim.

TOTAL PUNITIVE DAMAGES AWARDED: \$ _____

Presiding Juror*

*Your verdict must be unanimous.